

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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NEDIVA SCHWARTZ,

Plaintiff,

-against-

LIBERTY MUTUAL INSURANCE COMPANY,

Defendant.  
-----X

Civil Action No.

**NOTICE OF REMOVAL**

**M A D A M S / S I R S:**

Defendant LIBERTY MUTUAL INSURANCE COMPANY (“Liberty Mutual”),  
by its attorneys, JAFFE & ASHER LLP, respectfully alleges as follows:

1. On or about August 4, 2023, plaintiff NEDIVA SCHWARTZ (“Schwartz”) commenced an action entitled Nediva Schwartz v. Liberty Mutual Insurance Company, Index No. 534481/2023, in the Supreme Court of New York, County of Kings, by the filing of a Summons with Notice. A copy of the Summons with Notice filed in this action is annexed hereto as Exhibit “A”.

2. Along with the filing of the Summons with Notice, Schwartz also filed a proposed Order to Show Cause with a temporary restraining order, along with supporting papers. A copy of the proposed Order to Show Cause filed in this action is annexed hereto as Exhibit “B”. A copy of the Affirmation of Emergency in Support of Order to Show Cause, dated November 24, 2023, filed in this action is annexed hereto as Exhibit “C”. A copy of the Affirmation in Support of Schwartz, dated November 21, 2023, filed in this action is annexed hereto as Exhibit “D”. A copy of the first exhibit to the proposed Order to Show Cause filed by Schwartz is annexed hereto as Exhibit “E”. A copy of the second exhibit to the proposed Order

to Show Cause filed by Schwartz is annexed hereto as Exhibit “F”. A copy of the Request for Judicial Intervention filed by Schwartz in this action is annexed hereto as Exhibit “G”. A copy of the signed Order to Show Cause, signed by the Honorable Wayne P. Saitta, J.S.C., dated November 24, 2023, is annexed hereto as Exhibit “H”.

3. Liberty Mutual was first served with a copy of the Summons with Notice and the Order to Show Cause on November 28, 2023.

4. The Summons with Notice alleges that Liberty Mutual breached a contract when Liberty Mutual allegedly cancelled an insurance policy with Schwartz. Schwartz alleges that Schwartz incurred damages, including missed time from work, lost profits, and inability to pay vendors, resulting from Liberty Mutual’s negligence and mishandling of Schwartz’s account. Schwartz alleges damages in the amount of \$500,000.00, or such greater amount as may be established at trial.

5. This Notice of Removal is being filed by Liberty Mutual within thirty (30) days of Liberty Mutual’s first notice of the Summons with Notice and is timely filed pursuant to 28 U.S.C. §§ 1441 and 1446.

6. Liberty Mutual’s time to move, answer, or otherwise respond to the Complaint has not expired, as no Complaint has been filed. Additionally, Liberty Mutual’s time to respond to the Order to Show Cause has not expired, as it is returnable on December 7, 2023.

7. This Court has original jurisdiction over this civil action pursuant to 28 U.S.C. § 1332 because (a) the amount in controversy exceeds \$75,000; and (b) Schwartz and Liberty Mutual are citizens of different states.

8. Upon information and belief, and at all relevant times, Schwartz was, and still is, an individual residing at 3 Stillman Wye, Monroe, New York 10950.

9. At all relevant times, Liberty Mutual was, and still is, a stock insurance company organized under the laws of the Commonwealth of Massachusetts, with its principal place of business located at 175 Berkeley Street, Boston, Massachusetts.

10. Written notice of the filing of the Notice of Removal shall be given to adverse parties and Liberty Mutual shall file the notice with the Clerk of the State Court as required by law.

11. Liberty Mutual has not answered, moved or otherwise responded to the Summons with Notice and no other proceedings have occurred heretofore in this action.

12. No previous application for the relief requested herein has heretofore been made.

**WHEREFORE**, defendant LIBERTY MUTUAL INSURANCE COMPANY respectfully requests that this action be removed to this Court.

Dated: White Plains, New York  
November 30, 2023

Respectfully submitted,

JAFFE & ASHER LLP

By: 

Marshall T. Potashner, Esq.

Attorneys for Defendant  
LIBERTY MUTUAL INSURANCE  
COMPANY

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